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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/363,578	07/29/99	RYU	J 003364.P020

IM22/1004  
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EXAMINER

RUTHKOSKY, M

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 10/04/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/363,578

Applicant(s)

Ryu et al.

Examiner

Ruthkosky, Mark

Group Art Unit

1745

☒ Responsive to communication(s) filed on Jul 29, 1999

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-6 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-6 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies <sup>me</sup> received: 98-49390

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## **DETAILED ACTION**

### ***Summary***

1. Claims 1-6 are rejected under 35 U.S.C. 112. Claims 1-6 are rejected under 35 U.S.C. 102(b).

### ***Drawings***

2. The drawings have been approved by the draftsperson as described in form PTO 948, Notice of Draftsperson's Patent Drawing Review.

### ***Claim Rejections - 35 U.S.C. § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Details of the carbon, critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). The claims are to a type of carbon which has a structural relationship. The experimental results of the differential thermal analysis are simply

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measurements which correspond to the materials. Other materials may also have this type of results by differential thermal analysis. The claims do not clearly define the invention.

5. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are the experimental parameters of the measurements. When doing a differential thermal analysis measurement of the materials, essential experimental parameters must be included to understand the relationship of the results to the materials studied. While not exhaustive of the necessary elements, one example is the atmosphere of the experiment.

***Claim Rejections - 35 U.S.C. § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Takami (5,244,757).

Takami (5,244,757) teaches a lithium secondary battery which comprises spherical particles. The particles have a graphite structural part and a amorphous type part (see Fig. 2). The carbonaceous material has an exothermic peak of 900 °C or less by differential thermal

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analysis (col. 5, lines 15-30). No peaks are described for each material, however, the materials would have two, separate inherent values based on the graphite material and the non-graphite material. Thus, the claims are anticipated.

*Examiner Correspondence*

8. Any inquiry regarding this communication or a previous communication should be directed to Examiner Mark Ruthkosky, Ph.D., whose telephone number is (703) 305-0587 or his acting supervisors, Carol Chaney, whose telephone number is (703) 305-3777, OR Steve Kalafut, whose telephone number is (703) 308-0433. Please note that Examiner Ruthkosky is out of the office the first Friday of each bi-week period.

The art unit 1745 unofficial fax number is 703-306-3429, while the PTO official fax number is 703-305-3599.

*Carol Chaney*  
Carol Chaney  
Primary Examiner  
Art Unit 1745  
10-2-2000